

1954

April 14

Mr. Herbert L. Whitney
Chief Fire Inspector
State House

Dear Mr. Whitney:

In response to your question as to the liability of a fire chief who wilfully refuses to attempt to put out a fire, I advise that the state of the law is as follows.

Under chapter 175 of the Revised Laws of 1942, sections 2, 3, 4, 5, 6 and 7, it is the duty of the chief to take all acts necessary for protection against fires and to do everything possible to extinguish an existing fire. If he fail to do so it would, no doubt, be cause for his removal in accordance with the procedures of chapter 110, Laws of 1945. If the chief is not appointed under the provisions of said chapter 110, such conduct would possibly be grounds for removal from office in accordance with the usual common law principles for removal of an elected official.

Further, he would be subject to the penalty under Revised Laws, chapter 457, section 30. There is also possibility that the officer would be personally liable to any one injured or damaged by his wilful neglect of duty. McQuillan, Municipal Corporations, 3rd ed. section 12-208. The municipal corporation itself would probably not be liable for the act or omission by the chief. McQuillan, Municipal Corporation, 3rd ed. section

As you are aware, this office is authorized to give opinions only to departments of the State government and while you, of course, can and will use this opinion in the conduct of your official duties, it is not intended as advice to all towns or fire chiefs applying to all specific problems of the general nature inquired of as each case would possibly have different implications depending upon the specific facts.

Very truly yours,

Richard C. Duncan
Assistant Attorney General

RCD:RM

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